

SNOHOMISH COUNTY

Charter Review Commission

Minutes

Wednesday, July 19, 2006, 6:30 p.m.

Meeting Room 6A04

Sxith Floor, County Administration Building East

Everett, Washington

Commission Members Present: Eric Earling, Kim Halvorson, Gail Rauch, Ryan Larsen, David Simpson, Diane Symms, Mark Bond, Barbara Cothorn Hawksford, Jim Kenny, Kristin Kelly, Wendy Valentine, and Rick Ortiz

Commission Members Excused : Christine Malone, Mike Cooper and Renee Radcliff Sinclair

Others in attendance: Rich Davis, Peter Camp, Janice Ellis, Steve Reinig, Paul Blowers, Rick Robertson, John Chelminiak, Jeff Switzer, Evelyn Spencer, and Kathryn Bratcher

Call to Order

Vice Chair Earling, due to the absence of Chair Mike Cooper, called the meeting to order at approximately 6:30 p.m.

Approval of Agenda

Commissioner Kenny asked about the non-discrimination issue and when discussions are scheduled to continue in that regard. He noted that on June 21st it was postponed to the July 12th meeting and it was not discussed at that time. Commissioner Kenny stated that he thought the discussion had been postponed so more information could be obtained from the Commission's attorney. Rich Davis, Legal Counsel for the Commission, confirmed this information and advised further that he has had discussions with Chair Cooper in this regard but has not had an opportunity to get anything written yet. Vice Chair Earling advised that he will ask Chair Cooper to email a summary of his intent with regard to this issue.

ACTION: On motion of Commissioner Simpson, seconded by Commissioner Ortiz, the agenda for this meeting was unanimously approved by the twelve commissioners present.

Approval of Minutes

Vice Chair Earling noted that Steve Reinig will be inserting corrections to the minutes as noted, specifically adding the detail of roll call votes on pages 9, 10 and 11. Commissioner Kenny also noted a necessary correction on page 5

where a statement was attributed to Commissioner Halvorson when Commissioner Hawksford actually made the statement. Commissioners Hawksford and Halvorson concurred with this correction.

ACTION: On motion of Commissioner Kenny, seconded by Commissioner Rauch, the minutes from the July 12, 2006 Charter Review Commission meeting were unanimously approved by the twelve commissioners present with direction to staff to make corrections as noted.

Approval of Reimbursement Vouchers

Commissioner Simpson noted a correction to the voucher for payment to Commissioner Kenny. He noted that in the second column it should read 01/11/06 through 6/28/06 instead of 11/11/06 through 6/28/06.

ACTION: With the correction noted above, Commissioner Simpson made a motion to approve the payment of vouchers in the total amount of \$12,522.27. The motion was seconded by Commissioner Cothorn-Hawksford and unanimously approved by the twelve commissioners present.

Public Comment

Vice Chair Earling then opened the meeting for public comment.

Evelyn Spencer was the first individual to provide comment. Ms. Spencer distributed a paper regarding draft propositions 1 and 3 and suggested minor word changes. She suggested that the Commission consider the Executive's veto authority and possible future authority when considering Section 6.120, the new Salary Commission. Ms. Spencer commented that the County Executive should not be omitted from the exclusion. With regard to Proposition #3, Ms. Spencer suggested striking the language "or appropriation items" in the draft proposition language. A brief discussion ensued.

Comments to the Commission were also received from John Chelminiak, County Council Chief of Staff. Mr. Chelminiak distributed alternative language for the Commission's consideration regarding issues No. 5 (Transparency in Government) and No. 16 (Interlocal Agreements). With regard to Section 1.30, Intergovernmental Relations, Mr. Chelminiak explained that his proposed language would delete the phrase "by ordinance" from that section which would allow for the adoption of Interlocal Agreements by motion. He explained that this would pick up on the 1996 Charter Review Commission's work and he reminded the Commission that the County has been sued at least once over this provision.

With regard to public input at council meetings and the issue of transparency, Mr. Chelminiak stated that his proposed language would add the following language to Section 2.60 Rules of Procedure: "The rules of procedure shall provide for public access to agendas. The rules of procedure shall also provide for an opportunity for public comment during any meeting at which final action is

taken by the council on a contract with any government, governmental agency, or municipal corporation". Mr. Chelminiak stated that he feels the current draft language before the Commission is ambiguous and would be impossible to implement. As an example, he stated that he would have no idea how to "vary meeting times to be accommodate the public". In conclusion, he implored the Commission to be precise in their work and especially in their final proposition language.

Public Comments were also received from Dr. Paul Blowers who asked the commission about the status of the previous discussions regarding moving Corrections under the Sheriff. Vice Chair Earling advised that the issue of moving Corrections came up before the Commission on one of the early cutoff votes and it was eliminated from consideration because it did not get enough votes.

Comments by the Chair

Vice Chair Earling advised that he has been editing a draft of the transmittal letter to the County Council and will email a draft reflecting the Commission's deliberations and intent on specific issues members agreed to include. He stated further that if all goes well the members may be asked to sign the transmittal letter at next week's meeting.

Vice Chair Earling asked the Commissioners to come prepared to sort out the membership for the pro/con committees on the ballot issues next week. He explained that the Chair will send a memo to the County Council expressing the Commission's desires.

New Business - Motion(s) to Add Issues to the List

ACTION: Commissioner Hawksford made a motion to reconsider the issue of increasing the membership of the County Council to seven members after the 2010 Census. The motion was seconded by Commissioner Larsen. In discussion on the motion, Commissioner Hawksford stated that she feels that a larger Council will be necessary due to population increases by 2010 and a larger Council will provide better representation to the citizens. Commissioner Kenny stated that he will support the motion for reasons he has expressed previously. Commissioner Symms stated that she will oppose the motion for reasons she has stated before, namely: the expense, no message from current Councilmembers that they are overwhelmed by the workload and the fact that it was defeated on the ballot ten years ago. Commissioner Bond also spoke against the motion stating that the citizens he represents do not want to see this on the ballot. Commissioner Rauch echoed the sentiments of Commissioners Symms and Bond in opposing this motion. Commissioner Halvorson also commented against the motion, stating that she believes this will be a problem for the next Charter Review Commission but does not believe a problems exists at this time. Commissioner Larsen called for the question and the motion to end debate was approved unanimously by the twelve commissioners present. Upon

roll call vote the motion to reconsider the issue of increasing the membership of the County Council after the 2010 Census failed by a vote of four to eight with Commissioners Hawksford, Larsen, Kenny and Simpson in favor and Earling, Ortiz, Halvorson, Rauch, Kelly, Valentine, Symms and Bond voting against.

Items for Possible Action

Proposition #9 (Technical Corrections)

Vice Chair Earling suggested that these technical corrections be included in the biennial budget provisions unless any of the Commissioners object.

Commissioner Valentine asked what would happen if the two propositions are presented together on the ballot and the biennial budgeting proposition fails.

Vice Chair Earling stated that it may be necessary to get clarification from the Commission's Attorney, Rich Davis, but he would imagine that if the propositions are bundled and one fails, then they both fail. Mr. Davis stated that Mr. Earling is correct. He also advised that these housekeeping measures were proposed ten years ago and they did fail. Commissioner Valentine asked what the Commission could do to address the potential failure on the ballot. Vice Chair Earling pointed out that if the housekeeping measures fail, the County Council could take action on their own to put them on a subsequent ballot.

Commissioner Hawksford pointed out that the Council is not tied to a ten-year review schedule and would not be precluded from putting something on the ballot after this effort is complete. Vice Chair Earling stated that he would entertain a motion to include discussion of this item in the transmittal letter to the Council.

ACTION: Commissioner Valentine made a motion to bundle the technical corrections with the biennial budgeting proposition and include discussion of options for Council putting the corrections on the ballot themselves if necessitated in the letter transmitting the Commission's recommendations to the County Council. The motion was seconded by Commissioner Symms. In discussion on the motion, Commissioner Kelly asked why this isn't being bundled with Proposition #7. Vice Chair Earling, with the concurrence of Attorney Rich Davis, stated that Section 11 is all related to elections and this would not fit well in that section.

Commissioner Larsen called for the question. On motion of Councilmember Larsen, seconded by Councilmember Simpson, the Commission voted unanimously to close debate on this issue. Without objection, Vice Chair Earling stated that the main motion is approved by consensus.

Proposition #1 (Independent Salary Commission)

Attorney Rich Davis discussed revisions to the text since the last meeting. Commissioner Bond noted that the language consists of two paragraphs and half of the first one is a list of excluded people. He asked if using the phrase "any relationship that manifests a conflict of interest" might be better. Discussion ensued. Commissioner Kelly stated that she believes the addition of dating

relationships would be overboard as those are often temporary in nature. Commissioner Valentine concurred with Commissioner Kelly's comments. Commissioner Symms made a motion to add the phrase "or any other relationship that would create a conflict of interest" in the first paragraph at the end. Following comments by other Commissioners and Attorney Rich Davis who pointed out that such issues could be handled by the County Council when they set this Commission up by ordinance, Commissioner Symms withdrew her motion.

Commissioner Kenny noted that the second paragraph says that the Salary Commission shall meet annually. He stated that he would rather see the Commission convened every other year in the even numbered years to reduce the possibility of this becoming a political hot potato. Commissioner Hawksford noted that four year terms for Salary Commissioners are established in the second sentence of the first paragraph. She stated that she thought the Commission had decided that four year terms were not necessary and she finds this language confusing. Commissioner Rauch thanked Mrs. Spencer for suggesting the inclusion of the County Executive which will eliminate the potential hot potato of veto.

ACTION: Following a brief discussion regarding the appropriate language to address the issue of Salary Commissioner terms and how often the Commission should be convened, Commissioner Hawksford made a motion to refer this item to the Commission's attorney to re-work the language of this proposition based on discussions and direction from the Commission. The motion was seconded by Commissioner Valentine. In discussion on the motion, Commissioner Larsen stated that he will oppose the motion because there is no clear direction on two-year versus four-year terms. Commissioner Hawksford clarified that the intent of her motion was to refer the item to the attorney with specific direction. Commissioner Halvorson noted that there is not much time but if the clear direction is given by the commission it might be possible to have language ready for next week. Commissioner Valentine stated that she feels the Commission is being faced with an artificial deadline and she is concerned that she may be asked to put her name on something she doesn't understand and is not comfortable with. Commissioner Ortiz agreed that he also feels rushed on this issue but agrees with Commissioner Halvorson that the Commission should be able to crunch this out tonight. The question was called for and the Commission voted unanimously to close debate on this issue. A roll call vote was taken on the motion to refer this issue to the attorney with specific direction and the motion failed with Commissioners Hawksford, Kelly and Valentine voting for it and nine commissioners voting against.

ACTION: Commissioner Symms made a motion to amend the draft proposition in sentence two of the first paragraph to read "...shall serve two year terms ending December 31, 2010 and every two years thereafter.." and in the second paragraph "...bi-annually and shall file with Council .. schedule would become

effective and ... by the county council, salary commission or county executive". The motion was seconded by Commissioner Halvorson. Commissioner Hawksford suggested that the phrase "the County Council shall appoint a" be added as a friendly amendment. The maker and second agreed. Discussion on the motion ensued. A second friendly amendment was offered by Commissioner Kelly to change the date in the first paragraph to December 31, 2009. The language was accepted as a friendly amendment to the motion. The question was called for and on unanimous vote debate on this issue was closed. Roll call was taken on the motion as amended and it was unanimously approved by the twelve commissioners present.

Proposition #4 (Transparency in Government) & Proposition #5 (Interlocal Agreements)

Vice Chair Earling advised that Proposition Nos. 4 and 5 will be discussed together, noting that alternative language presented by County Council Chief of Staff, John Chelminiak essentially bundles the two issues together. Vice Chair Earling then called upon the Commission's attorney, Rich Davis, who summarized these two measures. Mr. Davis advised that there are as many as four different alternatives for Proposition #5 currently as the Commission has not been very clear in the direction they want to go on this. He stated further that he shares concerns voiced by John Chelminiak regarding how this may affect the day to day business of the Council. Mr. Davis then referred to alternative language proposed by Mr. Chelminiak at this meeting and stated that he believes it would be beneficial to remove the phrase "by ordinance" from Section 1.30 of the Charter and understands this has been the subject of litigation with the County, perhaps more than once. Mr. Davis advised, however, that he has concerns with bundling these propositions together because of the single subject rule. He suggested that perhaps the Commission would want to send this particular section back to the Council and suggest that they deal with independently.

Vice Chair Earling then invited open discussion by Commissioners on these two propositions. Commissioner Halvorson stated that transparency is an issue with the citizens as evidenced by the 90% response on Survey Monkey. She stated further that she has heard from the public that they want to be notified and have the opportunity to comment. She stated that she believes the language proposed by John Chelminiak is a viable compromise and she would be in favor of combining Propositions #4 and #5 because they relate to the same "open government" issue. Commissioner Valentine stated that she appreciates the proposal by John Chelminiak but does not feel that his language goes far enough to address the problem. She stated further that she would prefer that the citizens have real time access to council meetings but the Commission has backed off on that because of the costs. Commissioner Valentine also stated that she has no problem combining these issues and just wants to make sure that in the future citizens are not required to identify themselves before getting information.

Commissioner Kelly stated that she has no opposition to bundling Propositions #4 and #5, but she feels there needs to be more specific language about the hearing process, providing information and public comment at meetings where final action is taken. Commissioner Kenny stated that he had previously made a motion to require the County Council to have one night meeting a month, which failed. He stated that he feels public comment should be allowed at every meeting and the language proposed by Mr. Chelminiak would only require it when the Council is going to act on a contract. Commissioner Kenny stated that he generally supports alternative 4 which he feels addresses some of the concerns Commissioner Valentine has raised over time. Vice Chair Earling reminded Commissioners that this issue will be in the transmittal letter to the Council so that will be an opportunity to provide clarifying comments. Commissioner Rauch asked of Rick Robertson, the Deputy Prosecuting Attorney who advises the County Council, had any comments or suggestions for better language than "full and timely" and some of the other troublesome language. Mr. Robertson stated that adjectives in legislation are inherently problematic. Commissioner Symms suggesting adding a percentage to the language, for instance, requiring that ten percent of meetings be at night. Mr. Robertson addressed this suggestion, stating that it would be ambiguous and difficult to administer.

Commissioner Larsen stated that he doesn't support the language in any of the previous alternatives one through four. He stated further that he does like the Chelminiak proposal and believes that the Commission could define public access in the transmittal letter. Commissioner Larsen suggested the adoption of Chelminiak's language with the addition of the word "and" between the phrases "any meeting" and "at which final action..". Commissioner Hawksford stated that she supports this approach and believes it will result in cleaner language. Commissioner Kelly also commented in support of Commissioner Larsen's suggestion in general but stated she still prefers some iteration of alternative 4. Commissioner Valentine suggested that the language be strengthened by requiring the inclusion of meeting times which accommodate the majority of the public and to require "real time" access to information. Commissioner Bond asked if by doing so the Commission would be requiring county staff to do something that will not increase public participation.

On motion of Commissioner Simpson, seconded by Commissioner Rauch, the Commission voted unanimously to extend the meeting to 9:00 p.m.

Commissioner Ortiz commented in support of Commissioner Larsen's motion and stated that he thought it was gracious of Mr. Chelminiak to propose the language. Rich Davis, the Commission's Attorney suggested the amended sentence be changed to read, "The rules of procedure shall also provide for an opportunity for public comment during any meeting of the County Council." He explained that this language is clearer and has the same effect as that proposed

by Commissioner Larsen, Commissioner Larsen concurred with this language change.

ACTION: Commissioner Ortiz made a motion to accept the language of the draft proposition for Section 2.60 as submitted by John Chelminiak and amended by Commissioner Larsen. The motion included direction to legal counsel to review the alternatives for language and bundling with Section 1.30 and to further direct the Commission in this regard. The motion was seconded by Commissioner Larsen. The question was called for and the Commission voted unanimously to end debate on this matter. A roll call vote was taken and the motion was unanimously approved by the twelve commissioners present.

Proposition #6 (Performance Auditor)

Vice Chair Earling asked if commissioners have questions or require clarification of the language in this draft proposition. Commissioner Hawksford suggested changing the term “department head” to “appointed performance auditor”.

ACTION: Following a brief discussion, Commissioner Hawksford made a motion to approve the language of Proposition #6 with the change from “department head” to “appointed performance auditor”. The motion was seconded by Commissioner Simpson. In discussion on the motion, Commissioner Kenny stated that he feels this proposition is unnecessary and he has heard no issue brought to the commission that this purports to resolve. He stated that the Charter already gives performance auditor powers to the executive branch (the auditor) and the legislative branch (the council), so this proposal is unnecessary. He also stated that State Auditor Brian Sonntag’s opinion was that the performance auditor should be in the auditor’s office. Following a brief discussion, Commissioner Larsen asked a question regarding Section 3.130 and what will happen with that section if this proposition is approved. The Commission’s attorney, Rich Davis, stated that Section 3.130 relates to the Auditor and if Proposition #6 is moved forward that would automatically go away.

Commissioner Hawksford commented that the ballot title should include language to reflect that this is a shift of function, not the creation of a new program. Vice Chair Earling advised that the Commission will have the ability to tweak the ballot language. Commissioner Halvorson stated that she has had conversations with Brian Sonntag, State Auditor and his advice was that if it’s not broke don’t fix it. She said that she can foresee arguments on both sides of this issue but she feels the voters got cheated when they approved this program ten years ago and they should get a chance to decide whether to shift the function or not. Commissioner Rauch made brief comments in support of the motion stating that she believes moving the Performance Auditor function to the legislative branch will give it more teeth. Commissioner Bond commented that he believes the public will vote for this just because it says “performance auditor”. He suggested that another ballot proposition in two year to move the function back would probably be approved as well for the same reason. Commissioner Valentine

echoed Commissioner Hawksford's earlier comment about amending the ballot title to clarify that this is a shift of audit reporting.

Commissioner Simpson called for the question and the vote to end debate on this issue was unanimous. A roll call vote was called and the issue failed with seven commissioners voting for the motion and Commissioners Larsen, Bond, Kenny, Kelly and Valentine voting against.

Proposition #7 (Election Issues) & Proposition #8

Vice Chair Earling stated that he will accept a motion on these items together since they are reasonable issues to consider together. He stated that these are the suggestions made by the County Auditor and include the language Mr. Terwilliger testified was necessary to comply with state law. The Commission's Attorney Rich Davis concurred with that characterization of the proposition. ACTION: Commissioner Larsen made a motion to bundle Propositions Nos 7 and 8 and approve final ballot language as presented. A roll call vote was taken the this motion was approved unanimously by the twelve commissioners present.

Administrative Report

Analyst Steve Reinig asked Commissioners to get their mileage and expense reimbursement claims in as soon as possible. Commissioner Kelly stated that she anticipates that she will still be driving around the county on Commission business and she asked if she will be able to be reimbursed. County Council Chief of Staff John Chelminiak stated that technically the term of office for Charter Review Commissioners does not expire until the end of the year and reimbursement would be possible for expenses incurred while performing Commission business. He cautioned, however, that reimbursement cannot occur if the member incurs expenses while advocating one position or another on the ballot propositions.

Mr. Reinig advised that he has already started copying data from his network drives onto cds and will give each Commissioner a copy.

Mr. Reinig referred to a memo regarding office support post July 26, 2006 and suggested that it may be necessary to extend his contract to allow for wrap-up activities.

ACTION: Commissioner Symms made a motion to extend Mr. Reinig's contract to staff the Commission as described in his Administrative Report. The motion was seconded by Commissioner Simpson and unanimously approved.

Mr. Reinig requested that Commissioners let him know if they're not able to attend next week's meeting. He explained that this is critical to coordinate obtaining everyone's signature on the final transmittal memorandum.

Vice Chair Earling noted that at this point there are five ballot measures and the issues of non discrimination and Charter Section 1.30 on interlocal agreements remain unresolved.

Adjournment

The meeting was adjourned at 8:57 p.m.

Respectfully submitted,

Kathryn J. Bratcher